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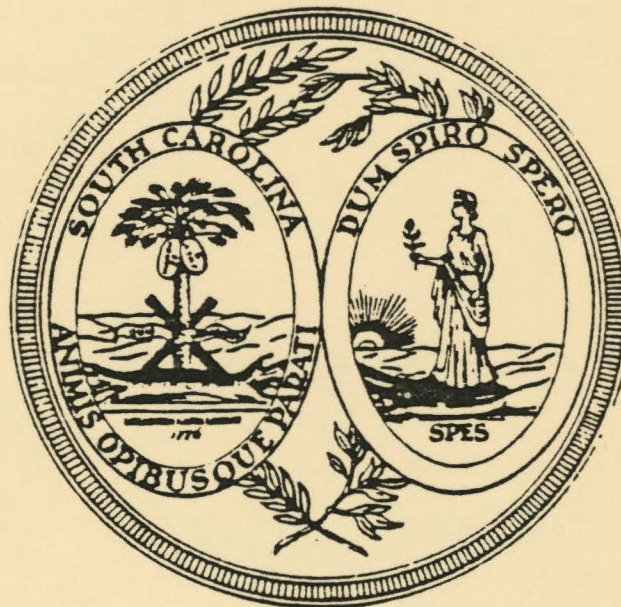
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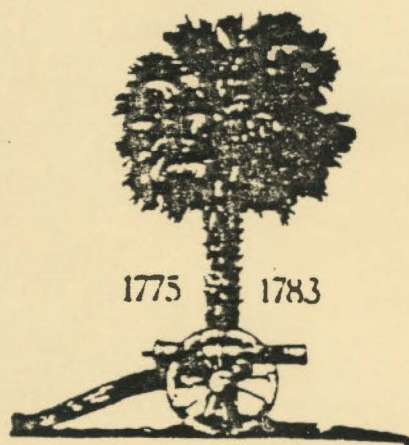
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STATE DOCUMENTS

South Carolina General Assembly



Legislative Audit Council



The State of South Carolina
General Assembly
Legislative Audit Council
Sunset Review of the
Board of Accountancy
July 10, 1979

THE STATE OF SOUTH CAROLINA

GENERAL ASSEMBLY

LEGISLATIVE AUDIT COUNCIL

SUNSET REVIEW OF THE

BOARD OF ACCOUNTANCY

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REPORT SUMMARY

In July 1978 the General Assembly passed Act 608 which has become known as the "Sunset Act." This Act abolishes specific boards and commissions as of predetermined dates and requires the Audit Council to review each board one year prior to their termination date. The Board of Accountancy is scheduled to terminate on June 30, 1980. The Council has reviewed the Board's regulatory duties, functions, policies and procedures. The Council has found that the Board of Accountancy does fulfill a public need through its regulation of Certified Public Accountants (CPA) and Public Accountants (PA) and should not be terminated.

Business, industry and financial investors all rely on the Certified Public Accountant and the Public Accountant for his or her expertise, knowledge, and performance of the attest function, an independent opinion of the financial condition of a business. This role and its effect on the State and nation's financial system and economy cannot be underestimated. For this reason the public welfare is protected through the regulation of CPA's and PA's by the Board of Accountancy.

Although the Board of Accountancy should not be terminated, there are areas in the licensing process and administration of the Board where changes are needed.

(1) CPA Certification and Licensure Functions Should Be Separated

South Carolina has one of the most restrictive experience requirements in the country for an individual to become a CPA. South Carolina's present certification/licensure structure does not recognize, as a CPA, many highly skilled accountants who have

passed the Uniform CPA Examination. This includes such qualified individuals as governmental and industrial accountants and auditors and college professors. The separation of the certification and licensure functions by the Board of Accountancy would duly recognize qualified individuals as CPA's upon passing the Uniform CPA Examination. The public would remain protected through the licensing of accountants in public practice (see p. 13).

(2) The Licensing of Accounting Practitioners is Not Needed to Protect the Public

Thirty-five states have followed a national trend to eliminate from regulation all non-CPA classifications of accountants. In addition to licensing CPA's, South Carolina licenses Accounting Practitioners (AP's), whose work is generally limited to elementary bookkeeping and "write-up" services. These services include posting accounts, bank statement reconciliations, and monthly trial balances. The title "Accounting Practitioner" can be obtained by an individual holding a baccalaureate degree in accounting or by passing the practice and theory section of the Uniform CPA Examination. The title may provide professional status and prestige but the services allowed AP's by law do not sufficiently endanger the public to justify licensure. South Carolina is one of only four states which regulate accountants who cannot perform the attest function. The attest function is the independent auditor's opinion on the fair presentation of financial information upon which investors, stockholders and other third parties rely. The attest function is the only accounting procedure that warrants legislative control (see p. 15).

(3) The State Should Not Mandate Professional Ethics

The Board of Accountancy has adopted a Code of Professional Ethics which exceeds the restrictions required by the AICPA and which tends to inhibit competition. Specifically the Board prohibits the direct uninvited solicitation of a potential client and limits the contact a public accountant may have with another practitioner's clients. The enforcement of the current Code of Ethics may leave the South Carolina Board of Accountancy open for a Federal anti-trust challenge. Behavioral standards and ethical responsibilities are difficult to enforce and are better left to accounting associations and societies who are concerned with professional courtesy and etiquette. If professional ethical requirements are needed at all, the AICPA standards which serve as a model for many states should be used (see p. 17).

(4) Investigation of Complaints Needs Improvement

The monitoring, processing and resolution of complaints filed with the Board of Accountancy is impeded by its lack of investigative support and analysis. Board members must take time from their private practices to pursue complaints and the proceedings are often unreasonably delayed. This may create an ineffective system of professional discipline and may diminish public responsiveness (see p. 20).

(5) Unnecessary Examination Prerequisites

The requirements for an individual to establish residency and be of "good moral character" before being allowed to take the CPA examination have little relation to one's competency in performing

accounting services. Residency in the State does not indicate additional qualifications to serve the public, and good moral character is both undefinable and unenforceable (see p. 24).

(6) Continuing Education Requirements Need Revision

Forty hours of continuing professional education every two years is not enough for CPA's to keep abreast of the frequent changes in State and Federal laws and accounting principles.

South Carolina requires the least number of continuing professional education hours of the 35 states with this requirement (see p. 27).

The Board's response to a draft of this report is found on page 39. In general, the Board was receptive to the Council's findings and recommendations and recognized the need for improvement in the regulation of accountants. Specifically, the Board does not oppose the separation of the certification and licensure functions and concurs with the recommendations concerning complaint handling, the conditional credit period, reciprocity and continuing professional education. The Board did not comment on the recommendation to eliminate the licensure of Accounting Practitioners.

The continuation of the Board of Accountancy and the regulation of CPA's is needed for the protection of the financial systems in this State and nation. However, improvements can be made which will help to ensure that this regulation is directed toward the public's welfare and benefit.

INTRODUCTION

Act 608 of 1978 mandates the establishment of "...A System for the Review, Termination, Continuation or Reestablishment of State Agencies, Boards, Departments and Commissions." This is commonly referred to as "sunset" review. Under this section of the law the General Assembly of South Carolina finds that there has been a "substantial" growth in the number of governmental entities and that this process has occurred "...without sufficient legislative oversight, regulatory accountability or a system of checks and balances." Therefore, the General Assembly has set up a process for the "systematic review" of certain governmental entities so that it might be in "a better position to evaluate the need for their continuation, reorganization or termination." Section 6 of the Act lists 40 agencies, boards and commissions which are to be reviewed and sets termination dates for those entities.

Section 2 of Act 608 provides that twelve months prior to the termination date of an agency or board the Legislative Audit Council make a "review of the specific programs or functions administered by such agency or board." Within this review and evaluation the Audit Council is to address the following issues:

- (1) The amount of the increase or reduction of costs of goods and services caused by the administration of the programs or functions of the agency under review;
- (2) Economic, fiscal and other impacts that would occur in the absence of the administering of the programs or functions of the agency under review;
- (3) The overall cost, including manpower, of the agency under review;

- (4) The efficiency of the administration of the programs or functions of the agency under review;
- (5) The extent to which the agency under review has encouraged the participation of the public and, if applicable, the industry it regulates;
- (6) The extent to which the agency duplicates the services, functions and programs administered by any other State, Federal, or other agency or entity;
- (7) The efficiency with which formal public complaints filed with the agency concerning persons or industries subject to the regulation and administration of the agency under review have been processed;
- (8) The extent to which the agency under review has complied with all applicable State, Federal and local statutes and regulations.

The South Carolina Board of Accountancy is scheduled to terminate June 30, 1980 and accordingly was audited by the Council. The following audit and evaluation presents the Audit Council's findings concerning the issues addressed in the legislation along with recommendations on their termination, reorganization, and continuation/administration of the Board.

In conducting this review the Audit Council examined and analyzed all policies and procedures promulgated by the Board. All applicable files, records, memos, and Board minutes were reviewed along with pertinent publications and materials. Numerous interviews were held with Board members and staff. In addition, information was obtained from professional societies, Federal agencies and other states pertaining to the regulation of accountants. The following report is composed of three sections: (1) background and history, (2) issues and findings, and (3) a summary of the evaluation of the Sunset issues.

BACKGROUND AND HISTORY

South Carolina passed its first accountancy law in 1915, becoming the thirty-sixth state to regulate and license accountants. The original law required that individuals holding themselves out to the public as a Certified Public Accountant be registered by the South Carolina Board of Examiners of Public Accountants. This three-member Board had no authority over other accountants in public practice and had no power to limit the practice of public accountancy to licensees. The 1915 law restricted the use of the title "CPA." In 1969, the original law was repealed and the current expanded accountancy law was enacted. This law restricted the public practice of accounting and related services to licensed accountants and created a nine-member Board of Accountancy.

Currently three types of accountants are licensed in South Carolina; the Certified Public Accountant (CPA), the Public Accountant (PA) and the Accounting Practitioner (AP). The CPA must demonstrate his professional competence by passing a national examination and meeting established standards of education and experience. The 1969 legislation formed the PA classification and enabled those accountants who were using the title at this time to be "grandfathered" to remain licensed as PA's. When the grandfathering process terminated on July 1, 1972, no other individuals could be licensed as PA's. The PA is allowed to perform the same functions as the CPA. The AP classification was established in 1969. The AP performs elementary bookkeeping and tax work but cannot render an opinion on any type of financial statement.

The purpose of the Board of Accountancy is to administer and enforce the statutes, rules, and regulations it promulgates with the approval of the General Assembly. This includes the measurement of

professional skills through examination procedures, the monitoring and policing of accountants through a comprehensive licensing system, the establishment of a Code of Professional Ethics, and the administration of an ongoing continuing education program (CPE). The South Carolina Board of Accountancy meets at least four times each year to discuss policy, review applicants and exam results, evaluate CPE reports and take appropriate disciplinary action for violations of the law or the rules and regulations.

In 1976 the law was amended requiring a continuing education program for accountants. The Board instituted a mandatory program in Continuing Professional Education (CPE), requiring licensees to attend 40 hours of educational activities in order to be eligible to renew their biennial license. Also the Board's regulations have changed to include modification of the Code of Professional Ethics, to permit advertising which is not false, misleading or deceptive. Other changes were in raising the licensing fee to \$30 and to unify the legal age for examination and licensure to eighteen.

The fundamental role of the public accountant is to help people and organizations evaluate the use of economic resources. Their work includes accounting, auditing, tax consultation, management advice, estate planning and analysis. Accountants also are involved with accounting systems, budgets, cost controls, profit plans, internal reports, data processing and quantitative analysis. Because the integrity, objectivity, and competence of public accountants is essential for consumers to make financially sound decisions, State Legislatures have enacted laws to provide regulation of the profession. Investors and

creditors rely on the independent auditor's opinion as to the fair presentation of an entity's financial condition. The presentation of this opinion, called the attest function, is limited by the 1969 law to the CPA and the PA.

Today the Board regulates over 1,000 Certified Public Accountants, 190 Public Accountants and 85 Accounting Practitioners. Each May and November the Board proctors about 315 candidates for the Uniform CPA Exam and adds 60 or so successful applicants to their rolls each examination period. The following table shows the increase in the number of licensees, exam candidates, and fees charged by the Board.

TABLE 1
GROWTH OF LICENSEES AND FEES CHARGED BY THE
SOUTH CAROLINA BOARD OF ACCOUNTANCY

	<u>1973- 1974</u>	<u>1974- 1975</u>	<u>1975- 1976</u>	<u>1976- 1977</u>	<u>1977- 1978</u>
Number of CPA Exam Candidates	469	566	586	600	628
Number of Licensees as of June 30:					
Certified Public Accountants	684	734	881	968	1066
Public Accountants*	241	235	221	192	190
Accounting Practitioners*	36	37	52	64	78
Fee Rates:					
Initial Examination	\$50	\$50	\$50	\$50	\$100
Reexamination:					
One Part	\$20	\$20	\$20	\$20	\$ 40
Two Parts	\$35	\$35	\$35	\$40	\$ 80
Three/Four Parts	\$50	\$50	\$50	\$50	\$100
Annual License Renewal	\$10	\$10	\$10	-	-
Two-year License Fee	-	-	-	\$20	\$20
Issuance of Certificate	\$20	\$20	\$20	\$20	\$20
Application for Reciprocity	\$25	\$25	\$25	\$25	\$25
Reinstatement Penalty	\$50	\$50	\$50	\$50	\$50

*The PA classification was established as a closed group in 1969 and these licensees represent those who were grandfathered as PA's at that time. The AP classification began in 1969.

Budget and Staff

The Board of Accountancy is administered by a part-time agency director who handles official correspondence, prepares the annual budget and State-required reports, and coordinates activities within the jurisdiction of the Board. When the Board came under the financial management of the Comptroller General in 1976, a full-time staff assistant was hired to handle the increased reporting requirements. The staff assistant spends about one-half her time (18 hours a week) preparing State-required forms and records.

The financial framework for the Board of Accountancy is outlined by S. C. Code 40-1-120. The law requires expenses to be paid from fees and licenses received and authority is given to the Board to establish individual fees for examinations, registration, licenses, and renewals within statutory limits. For the five-year period ending June 30, 1978, the Board of Accountancy collected over \$221,500 in fees and spent \$215,172. Excess fee revenue is put back into the State General Fund at year end. A detailed analysis of the Board's finances is shown in Table 2. According to the Board's Five-Year Plan filed in the Office of State Planning, the Board of Accountancy expects only "normal growth of the program now in use."

TABLE 2

SOUTH CAROLINA BOARD OF ACCOUNTANCY

Statement of Sources and Uses of Funds for the Five-Year Period Ended June 30, 1978

	<u>1973-1974</u>	<u>1974-1975</u>	<u>1975-1976</u>	<u>1976-1977</u>	<u>1977-1978</u>
SOURCE OF FUNDS:					
Fees-Licensing	\$6,095	10,925	12,375	22,430	9,835
Fees-Examination	20,270	26,300	28,140	32,145	53,060
Interest Income	1,301	1,468	1,573	*	*
Miscellaneous Income	61	75	45	*	*
Balance from previous year	28,940	27,632	26,425	*	*
TOTAL FUNDS	<u>\$56,667</u>	<u>66,400</u>	<u>68,558</u>	<u>54,575</u>	<u>62,895</u>
USE OF FUNDS:					
Personal Service	\$8,748	7,500	8,700	9,309	16,664
Travel		3,669	4,752	3,049	2,734
Telephone		64	39	31	400
Printing, Binding, Advertising	1,525	1,837	82	129	1,347
Data Processing Services		725	975	512	455
Examination Expenses	15,350	22,083	20,574	35,775	23,282
Audit	337	303	375	350	
Office Supplies		818	800	429	1,343
Postage and Box Rental	873	809	1,338	1,270	1,290
Other Supplies		17	404	226	110
Rents	1,776			684	3,031
Secretarial		1,800	3,027		
Insurance-Fidelity Bond	125	50	50	125	102
NASRA Dues	300	300	800	800	800
TOTAL FUNDS	<u>\$29,034</u>	<u>39,975</u>	<u>41,916</u>	<u>52,689</u>	<u>51,558</u>

Source: S. C. Budget and Control Board.

*In 1976 the Board of Accountancy came under the Comptroller General and these balances went into the General Fund.

ISSUES AND FINDINGS

CPA Certification and Licensure Functions Should Be Separated

Many highly skilled accountants in South Carolina have passed the Uniform CPA Examination but are prohibited from using the title "CPA" because they have not worked two to three years under a licensed accountant. When an individual passes the Uniform CPA Examination in South Carolina he or she "shall have no status as a Certified Public Accountant unless and until he has the requisite experience and has received his certificate as a Certified Public Accountant" (S. C. Code 40-1-190). The law further outlines that "the experience requirement shall be two years of public accounting experience under a Certified Public Accountant or three years of other public accounting experience, satisfactory to the Board." Board of Accountancy Regulation 1-7(D) has limited the three years of other public accounting experience to only that under a licensed Public Accountant.

According to the Board, definition of specific qualifying experience was necessary to ensure that future Certified Public Accountants had adequate skills and judgment to independently perform public accounting services. However, successful completion of the Uniform CPA Examination in itself demonstrates a high level of technical achievement in accounting. Alternate accounting experience also demonstrates knowledge and ability in accounting activities. For example, college professors have a substantial understanding of accounting skills but cannot use this experience in South Carolina to qualify as a "CPA." Others who have passed the Uniform CPA Examination such as Federal, State and local auditors, IRS agents and industrial accountants and

auditors may be equally competent but are also unable to use their experience to qualify in South Carolina as a "CPA."

In examining the structure of the licensure and certification process, the Audit Council found that South Carolina has one of the most restrictive experience requirements in the country. These requirements were not found to measurably increase the protection of the public. More than half of the states consider government accounting and auditing experience acceptable, and many states provide its Board of Accountancy mechanisms to evaluate private, industrial, and college teaching experience as qualifying for certification and licensure. Four states have no experience requirements at all. Three states have separated the certification function from the licensing function and established distinct regulations to secure a permit to practice public accounting. This system enables a successful CPA Examination candidate to call himself "CPA," but requires specified experience prior to entering public practice. Therefore a college professor, governmental or industrial accountant, or any other individual in non-public practice could qualify as a "CPA." The National Association of State Boards of Accountancy (NASBA) recommends the separation of the certification and licensure functions in its attempts to unify and streamline State Boards' procedures.

The result of not certifying individuals immediately after completion of the Uniform CPA Examination is to restrict official acknowledgement of competency to a broad range of qualified individuals. This allows the profession the ability to deny and control the use of the "CPA" title. In addition, job selection and mobility for aspiring CPA's is restricted since opportunities to acquire the requisite experience may not always be offered or available. In effect, the power to call oneself

a "CPA" is not dependent on the successful completion of the Uniform CPA Examination, but rather it is ultimately dependent on the public accounting profession's willingness to give one a job. This can restrict entry into the profession and deny the professional designation "CPA" to otherwise competent accountants in non-public sectors.

RECOMMENDATIONS

AFTER EXAMINING THE REQUIREMENTS OF OTHER STATES, THE FAIREST APPROACH FOR RECOGNIZING QUALIFIED INDIVIDUALS AS CPA'S IS THE SEPARATION OF THE LICENSURE AND CERTIFICATION PROCESS. THIS STRUCTURE HAS BEEN ADOPTED BY SEVERAL STATES AND HAS RECEIVED ACCEPTANCE BY THE PUBLIC ACCOUNTING PROFESSION IN THOSE STATES. THE SEPARATION OF THE CERTIFICATION AND LICENSURE FUNCTIONS OF THE BOARD OF ACCOUNTANCY CAN BE ACCOMPLISHED BY THE AMENDMENT OF S. C. CODE 40-1-190 TO REMOVE EXPERIENCE REQUIREMENTS PRIOR TO CERTIFICATION AS A CPA. EXPERIENCE REQUIREMENTS PRIOR TO LICENSURE AS A CPA WOULD REMAIN UNAFFECTED.

Licensing of Accounting Practitioners Not Needed to Protect the Public

The Accounting Practitioner (AP) classification was established in 1969 when the Public Accountant (PA) classification was established as a closed group (see p. 7). South Carolina Act 290 gave authority to the

South Carolina Board of Accountancy to regulate practitioners involved in the development, recording, analysis or presentation of financial information and the rendering of advice or assistance in regard to accounting controls, systems and procedures. In practice, the work performed by Accounting Practitioners is limited to elementary accounting services and bookkeeping. This includes posting accounts, maintaining journals, billing, bank statement reconciliation, and monthly trial balances. The AP cannot render any opinion, certify, nor attest to the fairness or validity of any financial statement or report. In order to be licensed as an AP in South Carolina, an individual must hold a baccalaureate degree in accounting or pass the practice and theory section of the Uniform CPA Examination.

The mandatory licensing of Accounting Practitioners by the State is unnecessary because an AP cannot exercise the attest function, the opinion upon which the public relies for financial decisions. Investors, stockholders and other parties do not depend on Accounting Practitioners to manage or report their financial interests. The licensing process should not be used to provide a group with prestige or status, it should be used to protect the public welfare. The proliferation of professional titles may create confusion and risks the dilution of quality in the public practice of accounting. The public may be confused by three classes of accountants; CPA's, PA's, and AP's, which perform many of the same services at different levels of qualification or competence. Thirty-five other states do not license a second class of accountants without any apparent loss of quality or credibility. Of the fifteen states that do license a practitioner-level class, eleven allow the class to attest financial statements. South Carolina Accounting Practitioners have no authority to attest statements, nor can they express an opinion

as an independent auditor. Forty-six states regulate only the attest function and do not regulate bookkeeping-accounting services, tax return preparation services, management and business consultants, nor other related services. The current Columbia telephone directory contains Yellow Page advertisements offering the services of twenty-nine local bookkeepers, thirty-two tax and small business consultants, and various management and general business consultants none of which are licensed or regulated by the State of South Carolina. Only one Accounting Practitioner is listed in the Columbia Yellow Pages.

Licensing this class of accountants, which currently consists of 85 individuals, does not limit or identify to the public the available choices for providers of bookkeeping and related services. State regulation provides this class a title and a professional status, but does not provide the public comprehensive protection. The attest function and audit opinion which relate to third-party reliance (such as investors and shareholders) are the only accounting services which necessitate and justify legislative control.

RECOMMENDATION

ARTICLE 3 OF THE ACCOUNTANCY LAW REGARDING
THE REGULATION OF ACCOUNTING PRACTITIONERS
SHOULD BE REPEALED.

State Should Not Mandate Professional Ethics

The South Carolina Board of Accountancy is enforcing a Code of Professional Ethics which prohibits the direct uninvited solicitation of a specific potential client and which limits the contact a public accountant

may have with another practitioner's clients. These prohibitions are unnecessary and serve to protect the accounting profession from the forces of competition. Rules governing etiquette and personal demeanor are difficult to enforce, and the Board has never revoked or suspended a license for an ethical violation. In addition, the Board has chosen not to enforce State Regulation 1-5 which requires formal affirmation or examination of the Code of Professional Ethics.

The accounting profession maintains that the absence of a Code of Ethics would impair one's independence, diminish one's credibility and dignity, increase consumer costs and decrease quality of services rendered. The Audit Council could not find evidence to support any of these claims. The AICPA, whose Code of Professional Ethics serves as a model for many states, has no provisions to prohibit encroachment and solicitation is permitted which is not false, misleading or deceptive. The public has a right to and a need for a free flow of information concerning the availability of accounting services. The orientation of these regulations appear to be more concerned with professional courtesies than with the protection of the public welfare. Although the Board of Accountancy is empowered by S. C. Code 40-1-140 "to establish and maintain a high standard of integrity and dignity in the profession" through rules of professional conduct, the State should not create a mechanism through which a profession can protect itself from the forces of competition and public accountability.

While ethical rules restraining trade do not directly influence prices and therefore are not per se violations of Section 1 of the Sherman Act, enforcement of the current restrictive Code of Ethics leaves the South Carolina Board of Accountancy open for a Federal antitrust

challenge. The anti-competitive effects of State regulation are presently the subject of an extensive formal investigation conducted by the Federal Trade Commission (FTC). A U. S. Deputy Assistant Attorney General has commented:

Do State Boards act as insulators, whose basic purpose and effect is to protect those regulated from the demands and thus, necessarily, the incentives of competition and free enterprise? Licensing, like other forms of government, tends to become less benign as it matures. Over a period of time, licensing gives a certain social status to an occupation or profession. The licensed group soon begins to control entry into the occupation or profession, and finally, controls the degree of competition therein.

All attempts to eliminate statutory ethical responsibilities among professionals will result in subordinating the profession's own economic and social interests to those of the general public. The State Board of Accountancy should not serve to improve the status and increase the clientele of public accountants. The Board can enhance its role as guardian of the public welfare through advocating competitive free enterprise without compromising the high degree of integrity, objectivity and independence the public expects from those rendering accounting services.

RECOMMENDATION

THE BOARD OF ACCOUNTANCY SHOULD ELIMINATE THE CODE OF PROFESSIONAL ETHICS FROM ITS REGULATIONS. IF THE GENERAL ASSEMBLY DEEMS ETHICAL PROCEDURES AND RESPONSIBILITIES ARE WITHIN THE PURVIEW OF THE STATE TO ENFORCE, THE AICPA MODEL SHOULD BE USED.

Investigation of Complaints Needs Improvement

The Board of Accountancy keeps no central log for complaints, nor does it analyze complaints in order to identify problem areas or trends. Unnecessary delays in resolving complex substandard reporting cases and other matters cause undue hardship on the parties involved and is not in the public interest. The Board has failed to develop mechanisms for detecting substandard work, identifying unlicensed persons and for processing consumer complaints. The Board of Accountancy has never suspended or revoked any accountant's license for disciplinary reasons.

Current complaint investigation is handled by the Executive Director with the support of individual Board members whose time must be detracted from their private practice without compensation. Of the 26 complaints filed in FY 77-78, eight of these involved unlicensed individuals or firms offering accounting services to which the Executive Director sent an order to cease and desist. The remainder of the complaints, six of which were made by consumers, required more extensive remedies, especially those involving ethics violations, perceived infractions of the law or regulations, and substandard reporting. No log is kept of complaints because the Board generally acts on a complaint as it is received. However, no follow-up procedures are used to ensure future compliance and the Board does not monitor the status of complaints from receipt until final disposition. The small size of the Board's staff and its dependence on licensees to police the profession and enforce the law are both responsible for the inadequate handling of consumer complaints.

The strength of the accountancy law and the degree of public credibility for the profession is dependent on the assurance of continuing high quality standards for accountants to follow and the State to enforce.

Responsiveness to consumer inquiries and problems fulfills the Board's role as the public's liaison to the profession and as advocate of the consumer's welfare. Expedient complaint processing would improve the overall quality of accounting services in the State and strengthen the commitment of the Board to serve the profession and the public.

Delays in investigation and adjudication of violations impede the judicial process with which the Board is charged. According to Board members, licensees may be reluctant to confide in the Board under the present system of complaint processing. The lengthy investigation process may ultimately result in a remedy that is often "too little, too late." Without proper investigative support, the Board cannot maintain an efficient and effective system of professional discipline and will have limited impact on the enforcement of the accountancy law.

RECOMMENDATIONS

THE BOARD OF ACCOUNTANCY SHOULD MAINTAIN A COMPLAINT LOG AND CONTINUOUSLY MONITOR THE STATUS OF ALL COMPLAINTS RECEIVED UNTIL THEY ARE RESOLVED. THE LOG SHOULD BE REVIEWED AND ANALYZED TO DETERMINE IF PROBLEM AREAS CAN BE CORRECTED THROUGH APPROPRIATE ACTION BY THE BOARD.

THE BOARD OF ACCOUNTANCY SHOULD EXPAND ITS ENFORCEMENT EFFORTS AND TAKE A MORE ACTIVE ROLE IN THE PROCESSING OF COMPLAINTS. THE BOARD SHOULD ANALYZE ITS NEEDS FOR

INVESTIGATIVE SUPPORT AND TAKE APPROPRIATE
ACTION IN SECURING INVESTIGATIVE ASSISTANCE.

Examination

The South Carolina Board of Accountancy examines approximately 300 CPA candidates each May and November for an initial testing fee of \$100.00. The Uniform CPA Examination, identical to the test given simultaneously in all other states, is a two and one-half day accounting achievement test prepared to assess a candidate's knowledge of accounting practice, auditing standards, accounting theory and business law. The uniformity of the examination's content and grading provides consistency and establishes a basis for the interstate practice of CPA's. Although there is a national Uniform CPA Examination, there is no national CPA certificate. The ultimate decision to license a successful candidate is retained by each state. Questions pertaining to State or local accountancy laws or practice regulations are not addressed on the examination.

The examination is prepared by the Board of Examiners of the American Institute of Certified Public Accountants (AICPA) with the cooperation of the National Association of State Boards of Accountancy (NASBA) and the American Accounting Association (AAA). The AICPA grades the examination through their Advisory Grading Services at a cost of \$8 per paper. Papers are graded anonymously in a four-stage process with a minimum grade of 75 needed to pass each section. Only about 25% of all candidates are successful in any one section of the exam in South Carolina, receiving partial credits applicable to future sittings of the examination.

The granting of partial credit, called conditioned credit, is possible if a candidate successfully passes any two parts of the exam or the accounting practice part, with an average score of 40 necessary on all subjects not passed. This credit will carry forward for the next three examinations. No minimum average score is required of candidates who successfully complete three or more parts, and candidates who pass three parts of the examination will have their conditioned credit period extended to include five consecutive reexaminations. A waiting period of three years is required of a candidate who, after two examinations, has failed all parts with an average score of less than 40. Credit may be granted for part(s) of the examination passed in another state if the applicant has met the general qualifications required for South Carolina candidates, except residency.

Conditioned Credit Policy Too Restrictive

The time constraints placed on the granting of partial credit for the CPA examination in South Carolina is the most restrictive in the nation. Forty-four states allow five or more reexaminations before credit lapses and some states have no time limits at all. South Carolina only allows credit to be carried forward through the next three examinations (a year and a half). As a result, unsuccessful candidates for the exam are forced to wait several years for reexamination and repay an examination fee for each section not passed. Since less than 3% of all candidates pass all four parts of the exam at any one sitting, excessive restrictions on the granting of partial credits limits the number of Certified Public Accountants in practice in South Carolina. This can have the effect of restricting entry into the accounting profession without benefiting the public welfare.

RECOMMENDATION

REGULATION 1-7(F) SHOULD BE RELAXED TO REMOVE THE EXCESSIVE RESTRICTIONS PLACED ON UNSUCCESSFUL CPA EXAM CANDIDATES. THE CONDITIONED CREDIT PERIOD SHOULD EXTEND TO AT LEAST FIVE REEXAMINATION OPPORTUNITIES.

Unnecessary Examination Prerequisites

Some of the State's requirements for taking the CPA examination have no relation to the practice of accounting. To be eligible to sit for the national Uniform CPA Examination, a South Carolina candidate must demonstrate that he (1) is a bona fide resident of this State of legal age and (2) is of good moral character. An individual's residency or personal morality has no significant relationship to successful job performance nor to the quality of accounting services an individual renders. Residency does not necessarily reflect a practitioner's level of stability or continuity and certainly has no bearing on one's competence as an accountant. The law does not define "good moral character" and it is beyond the regulatory mission of the Board of Accountancy to protect the public from immorality. No one has been denied a license by the Board for being of less than good moral character, which is understandable since applicants furnish their own letters of recommendation. The Board should continue to maintain and uphold high professional standards for its licensees, however, subjective requirements such as "good moral character" and other vague terms should be replaced by more objective criteria.

The major effect of unnecessary or vague examination prerequisites is that the standards they represent do not adequately address the

issue of technical competency nor do they significantly upgrade the quality of CPA's working in South Carolina.

RECOMMENDATION

S. C. CODE 40-1-180 SHOULD BE MODIFIED AND THE NON-JOB-RELATED EXAMINATION PREREQUISITES OF RESIDENCY AND GOOD MORAL CHARACTER ELIMINATED OR DEFINED.

Licensure

All fifty states regulate Certified Public Accountants through a system of professional licensing. After successful completion of the Uniform CPA Examination, each state determines the amount of public accountancy experience the candidate must obtain prior to the issuance of a license. Once licensed, a South Carolina Certified Public Accountant need only pay a \$30 fee (effective FY 78-79) and file a certificate of compliance with the continuing education requirements every two years to continue his licensure. In order for the Board to suspend or revoke a license, a licensee would have to (a) be convicted of a crime involving moral turpitude, (b) obtain his license by fraud or deceit, or (c) violate any rule of conduct promulgated by the Board or for gross negligence in his profession. The South Carolina Board of Accountancy has not revoked or suspended any license except for the non-payment of fees and non-compliance with continuing education requirements.

Reciprocity Policy Needs Clarification

The Board of Accountancy is enforcing a regulation which restricts the mobility of Certified Public Accountants and creates a potential conflict of interest between State licensing authorities and their licensees.

South Carolina accountancy law enables the Board to waive the required CPA examination for persons licensed in another state. This waiver is granted if the applicant has held his out-of-state license for more than one year and the state's standards are equivalent to those of South Carolina. The law requires the out-of-state applicant to pay all fees and to comply with all rules and regulations to which in-state licensees are subject. Option for revocation is given to the Board should the certificate of original issue of any out-of-state CPA be revoked or cancelled by his home state. The Board has issued 243 licenses through reciprocity.

No provision in the law or regulations addresses the situation when an out-of-state CPA permanently moves into South Carolina with the intent to practice public accounting. According to State Regulation 1-9, not only must out-of-state reciprocity applicants demonstrate a professional need for a South Carolina license, but they must continuously maintain their out-of-state license in addition to their South Carolina license. This situation forces CPA's to pay duplicate fees and comply with two potentially diverse sets of rules and regulations. This regulation specifically mandates automatic revocation of a license in reciprocity should the certificate of original issue of any out-of-state CPA be revoked. According to Board members, individuals may be able to transfer credit for all sections of the Uniform CPA Examination to South Carolina and receive a new certificate. This practice has not been formalized by the Board and is not generally known to reciprocity candidates.

A purpose of the Uniform National CPA Examination is to provide a basis for the interstate licensing of CPA's. While each state may determine its own reciprocity terms such as experience, states should not

continue the licensure of CPA's who permanently move to another state. The licensing process should be a control for practicing accountants within the confines of a specific state.

RECOMMENDATION

THE BOARD OF ACCOUNTANCY SHOULD COOPERATE WITH NATIONAL ORGANIZATIONS (I.E., NASBA) TO STREAMLINE LICENSURE OF ACCOUNTANTS AND UNIFY THE INTERSTATE LICENSING PROCESS. RECIPROCITY PROCEDURES NEED TO BE AMENDED IN THE REGULATIONS TO INTEGRATE OUT-OF-STATE CPA'S INTO THE BOARD'S PERMANENT AND SOLE JURISDICTION. SPECIFICALLY, THE BOARD SHOULD FORMALIZE THE PROCESS OF TRANSFERRING FULL CREDIT FOR THE UNIFORM CPA EXAMINATION AND PROVIDE FOR THE ISSUANCE OF NEW CERTIFICATES.

Continuing Professional Education Requirements Need Revision

Authority was given to the Board in 1976 to establish a system to convey current developments in the accounting field to licensees and to ensure a minimal level of competence as a prerequisite for license renewal. As a result, "the Board shall from time to time adopt regulations implementing the requirements for continuing education which must be met by Certified Public Accountants, Public Accountants and Accounting Practitioners" (S. C. Code 40-1-610). The statute provides:

The Board shall recognize the following as meeting the continuing education requirements:

- (a) Professional development programs of national and State accounting organizations. A one-day program is equal to eight hours. Only class hours or the equivalent and not student hours devoted to preparation are counted.
- (b) Technical sessions at meetings of State accounting organizations and their chapters.
- (c) Courses offered by colleges, universities, technical education centers and other appropriate educational institutions, including credit and noncredit courses. Each semester hour credit shall equal fifteen hours toward the requirement, each quarter-hour credit shall equal ten hours. In noncredit courses each classroom hour shall equal one qualifying hour.
- (d) Any other activities, methods, procedures, devices and programs which, in the opinion of the Board, contribute directly to the professional competence of the licensee.

Currently the Board requires forty hours of acceptable continuing education every two years.

The Board has been diligent in its enforcement efforts of the Continuing Professional Education (CPE) program. To date, 84 licenses have been revoked for failure to comply with the forty hour biennial requirement, but are eligible for reinstatement upon presenting evidence of compliance and payment of \$50 penalty plus regular renewal fees. The Board appears dedicated to the intent of Continuing Professional Education, but of the twenty-seven states now requiring mandatory CPE, South Carolina has the lowest hourly requirements. Most states follow the AICPA's suggested guidelines of a minimum of 40 hours per year for CPE. The number of required hours is low in South Carolina because it was thought that continuing education would put an unfair burden on busy accountants and the cost to comply would be excessive.

However, as the CPE program developed within the State, opportunities for timely and informative technical sessions became readily available at a reasonable cost.

The purpose of CPE is to disseminate timely information and provide a forum for the discussion of accounting issues. The professional development of public accountants is of vital concern to the consumer who depends on the advice and technical expertise he has to offer. The Council reviewed alternative measures of ensuring continued competence, including reexamination and periodic workpaper review, and determined a comprehensive CPE program to be the most viable and effective method the Board can administer.

As a result of inadequate CPE requirements, there have been complaints from accountants that the program is weak and ineffectual. The public welfare may be endangered because the insufficient educational requirements allow some accountants to remain uninformed of new reporting procedures and laws. The money invested in maintaining one's competence may be wasted if the educational program requirements are so minimal as to prevent absorption of new knowledge.

RECOMMENDATION

THE BOARD OF ACCOUNTANCY SHOULD RAISE
ITS CONTINUING PROFESSIONAL EDUCATION
REQUIREMENTS TO AT LEAST EIGHTY HOURS FOR
EACH TWO-YEAR LICENSE RENEWAL PERIOD. THE
BOARD SHOULD MONITOR OTHER STATES TO
ENSURE COMPARABLE CPE POLICIES.

Conclusion

The Board of Accountancy performs a needed function in the regulation of Certified Public Accountants and should not be terminated. It is the responsibility of the State to protect the welfare of its citizenry and to safeguard the solvency of the general economy through competent accounting professionals subject to adequate legislative control. The licensing process offers the most comprehensive means of State regulation at the professional level. However, licensure of Certified Public Accountants in South Carolina can be modified to make the requirements less restrictive, but no less effective.

The Board of Accountancy has been generally responsive towards its regulatory responsibilities, though many of the laws and regulations it enforces are in need of revision. The separation of the certification and licensure functions is needed so that qualified individuals who have passed the Uniform CPA Examination can be recognized as a CPA without public accounting experience. Elimination of the Accounting Practitioner classification and the Code of Professional Ethics will enable the forces of competitive free enterprise to enter into the profession with no identifiable detriment to the consumer of accounting services. If ethics remain a part of State regulation, the AICPA model is the least anti-competitive and should be adopted by the Board. Improvements are needed in the investigation of complaints and the overall enforcement of the law can be strengthened to react to the complex challenges of the contemporary business environment. Revision of the continuing professional education requirements is needed to ensure that CPA's are meeting the high standards and using the acceptable methods necessary for their work.

The continuation of the South Carolina Board of Accountancy, with modification, will offer the public a liaison to the accounting profession whose goals are to protect and assist the public and whose administration can create an environment in which accountants can serve and prosper.

OTHER RECOMMENDATIONS

THE BOARD OF ACCOUNTANCY SHOULD SEEK WAYS TO SAVE TIME AND INCREASE EFFICIENCY IN MEETING STATE FINANCIAL MANAGEMENT SYSTEM REQUIREMENTS. SHARED SERVICES WITH OTHER AGENCIES AND BOARDS AND INCREASED USE OF AUTOMATED SYSTEMS SHOULD BE CONSIDERED.

S. C. CODE 40-1-160 SHOULD BE AMENDED TO ELIMINATE THE REPORT OF AUDIT BY A CPA AS A PART OF THE BOARD'S ANNUAL REPORT TO THE GOVERNOR. THE BOARD SHOULD BE SUBJECT TO ROUTINE INSPECTION BY THE OFFICE OF THE STATE AUDITOR.

THE BOARD OF ACCOUNTANCY SHOULD ACTIVELY SOLICIT THE PUBLIC'S PARTICIPATION IN ITS ACTIVITIES. INCLUSION OF PUBLIC MEMBERS ON THE BOARD WILL ENHANCE ITS ROLE AS THE CONSUMER'S ADVOCATE.

SUNSET ISSUES AND EVALUATION

Act 608 of 1978, known as the Sunset Law, contains a series of eight issues which must be addressed in the review of each agency. These requirements encompass the areas of efficiency and effectiveness which will ultimately determine the termination, continuation, or reestablishment of the agency and will also supply to the General Assembly an indication of the agency's public responsiveness and regulatory compliance. The issues and Audit Council's responses are presented in the following section.

DETERMINE THE AMOUNT OF THE INCREASE OR REDUCTION OF COSTS OF GOODS AND SERVICES CAUSED BY THE ADMINISTERING OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY UNDER REVIEW.

Since the Board does not regulate fees charged by licensees for their services, it has no actual direct influence on consumer prices. The costs of regulation are included in the monetary amount paid for accounting services, but it is doubtful that State control results in significantly higher prices to the public. There are costs to the accountant to comply with regulatory standards including preexamination and continuing education, examination and licensing fees, and office registration. The Council found no measurable cost increases or reductions as a result of the administration of the accountancy law.

WHAT ECONOMIC, FISCAL AND OTHER IMPACTS WOULD OCCUR IN THE ABSENCE OF THE ADMINISTERING OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY?

It is generally accepted that the absence of regulation over the accounting functions, especially the attest function, would impose a potentially serious threat to the public welfare. Many sectors of the economy rely upon the services of CPA's and their work is often the basis for financial planning and decision-making. If audit reports were not properly prepared, monetary losses could result to both the entity and those who relied on the information for investment decisions. Clients would be paying fees for substandard or inadequate services and third parties (investors, stockholders) would risk their monies in ventures whose financial operations are not adequately reviewed and controlled. Large scale losses could seriously affect the economic health of the State and nation.

The loss of consumer confidence in public accountant reporting and auditing services would impair the flow of commerce in the State. The public would be unable to identify a competent accountant if there were no uniform measure of skill and knowledge. Users of financial information in other areas of the country would be forced to investigate each preparer to determine his professional competence. The absence of regulation would prevent South Carolina accountants from auditing Federal programs or filing statements with the SEC, the IRS, and other Federal agencies. The consumer would be forced to seek a recognized professional sanctioned by another state or jurisdiction. The ultimate loss of uniformity in reporting financial transactions and the potential for financial mismanagement due to unregulated accounting practices is too great a threat to the public welfare for the State to not control the accounting profession and its functions.

DETERMINE THE OVERALL COST, INCLUDING MANPOWER, OF THE AGENCY UNDER REVIEW.

In FY 77-78, the Board of Accountancy collected \$62,895 in fees and spent \$51,558 of which \$16,664 (32%) was for personal service. A detailed analysis of sources and uses of funds for the five-year period ended June 30, 1978 is presented in Table 2 on page 12.

EVALUATE THE EFFICIENCY OF THE ADMINISTRATION OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY UNDER REVIEW.

The Council's review of the office administration of the Board of Accountancy reveals compliance with applicable regulations as promulgated by the Comptroller General. There is no written procedures manual for the staff assistant to follow, but the Council doubts the benefits of such a manual would be worth the time and expense of its development. Guidelines recommended by the AICPA concerning testing procedures have been followed to assure validity, security, confidentiality, and anonymity in administering the national Uniform CPA test. Analysis of the cost efficiency in the major expenditure areas revealed efficient utilization of resources despite the large volume of paperwork and staff hours required by the State financial management system for such a small agency.

DETERMINE THE EXTENT TO WHICH THE AGENCY UNDER REVIEW HAS ENCOURAGED THE PARTICIPATION OF THE PUBLIC AND, IF APPLICABLE, THE INDUSTRY IT REGULATES.

While the Board appears aware of the public's right to expect governmental agencies to afford them a reasonable opportunity to participate, no positive goals toward that end have been formally established.

The Board has attempted to get public input regarding their regulation change proposals and statutory amendments through the placement of newspaper legal notices. According to the official minutes of Board meetings and hearings, public sessions have not been well attended. Regularly scheduled Board meetings are not attended by the general public, though the public is free to do so. Since all of the meetings have been held in Columbia, public access may be restricted and thereby account for poor consumer participation.

The current Code of South Carolina 40-1-80 and 40-1-90 restricts membership to only Accounting Professionals and the law makes no mention of public participation or of any public obligation other than announcement of "the CPA examination at least six weeks prior to the date set in such newspapers as shall provide adequate statewide notice" (40-1-190). The inclusion of consumers on the Board of Accountancy would be a valuable contribution towards the objective administration of the profession and the increased initiative in legislative proposals to the benefit of the public.

DETERMINE THE EXTENT TO WHICH THE AGENCY DUPLICATES THE SERVICES, FUNCTIONS AND PROGRAMS ADMINISTERED BY ANY OTHER STATE, FEDERAL, OR OTHER AGENCY OR ENTITY.

The South Carolina Board of Accountancy was created in 1969 to "carry out the purposes and enforce the provisions" of Act 290 which provided the framework for the regulation and licensing of the profession of public accounting. No other regulatory body has the authority to govern the profession, nor does the Board overlap the functions of

any other agency in its administrative efforts. Each state has independent jurisdiction over the profession and there is no Federal intervention except the requirements accountants must observe when filing Federal statements with agencies like the SEC or IRS.

EVALUATE THE EFFICIENCY WITH WHICH FORMAL PUBLIC COMPLAINTS FILED WITH THE AGENCY CONCERNING PERSONS OR INDUSTRIES SUBJECT TO THE REGULATION AND ADMINISTRATION OF THE AGENCY UNDER REVIEW HAVE BEEN PROCESSED.

Current efforts to investigate complaints are inadequate to be effectual in resolving many of the complex problems brought before the Board. Routine complaints which require only a letter to the offending party are handled expediently, but with no follow-up investigation or continued monitoring. A more detailed discussion of this subject is contained on page 20. Improvement in this area will increase the degree of public credibility for the profession and will further the commitment of the Board to the public interest and welfare.

DETERMINE THE EXTENT TO WHICH THE AGENCY UNDER REVIEW HAS COMPLIED WITH ALL APPLICABLE STATE, FEDERAL, AND LOCAL STATUTES AND REGULATIONS.

The Board of Accountancy is not subject to any Federal or local legislation and is limited only by State of South Carolina law. The Council reviewed all applicable laws and regulations pertaining to the administration of the Board of Accountancy and attempted to verify their consistent and equitable application within the legislative intent. The following are found in non-compliance:

Rule 1-5 requires an examination or sworn affidavit affirming the existence and faithful observation of the Code of Professional Ethics by each successful exam candidate. This rule has not been enforced and is further addressed in this report on page 17.

S. C. Code 40-1-160 requires an annual certified report by an independent CPA. When the Board came under the financial administration of the Comptroller General in 1976, the Board discontinued the services of its independent CPA firm and became subject to routine examination by the State Auditor. This section of the accountancy law should be deleted.

APPENDIX

APPENDIX 1

SOUTH CAROLINA BOARD OF ACCOUNTANCY

P.O. BOX 11378

COLUMBIA, S. C. 29211

July 2, 1979

Mr. George L. Schroeder
Executive Director
Legislative Audit Council
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Re: Audit of the South Carolina Board of Accountancy
by the Legislative Audit Council

Dear Mr. Schroeder:

The South Carolina Board of Accountancy and the Staff of the Board appreciate the opportunity to respond to your study of the activities of the Board. Your Staff has conducted a thorough and professional examination. We commend them for their performance.

Our response generally follows the sequence of your report:

1. With reference to the recommendation concerning experience and licensing requirements, the Board of Accountancy goes on record as not opposing this recommendation.
2. The Board of Accountancy believes that a reasonable amount of experience in performing audits in accordance with "Generally Accepted Auditing Standards" should be required.
3. "Licensing of Accounting Practitioners Not Needed to Protect the Public," pages 16-18.

The Board of Accountancy is divided on this recommendation, and has decided not to respond as a body.

4. "State Should Not Mandate Professional Ethics," pages 18-19. Rules 1-30, 1-31, 1-32, 1-33, and 1-34 (Article 3 of the Code of Professional Ethics) are attached and become an integral part of this letter.

The comments of the Legislative Audit Council concerning the ethics rules (Rules of Professional Conduct) are directed only to the rules on advertising and solicitation.

Rules 1-30, 1-31, and 1-32 are necessary in order to state the professional responsibility which public accountants have toward their clients and the public.

The purpose of Rule 1-33 is to require necessary communication for the protection of a client involved in dealing with more than one practitioner, and to protect the independence and objectivity of a practitioner during the conduct of his engagement.

Rules 1-34 (C) and (D) are essential for maintaining the necessary degree of independence and objectivity in rendering professional services.

Rules 1-34 (A), (B), and (E) are less important. However, the Board feels it is advisable to prevent advertising which is false, deceptive, and/or misleading. The Board also feels that the present solicitation rule is necessary in order to protect the objectivity and independence of the practitioner after he has been engaged and during the performance of his services.

5. "Investigation of Complaints Needs Improvement," pages 20-22.

The Board does not disagree with these findings and the recommendations.

6. "Examination - Conditional Credit Policy Too Restrictive," pages 22-24.

The Board agrees that it may be desirable to extend the conditional credit period.

7. "Unnecessary Examination Prerequisites," pages 24-25.

The Board agrees that a better definition of "good moral character" is needed.

The Board has a problem giving examinations to the number of candidates now being examined because of limitations of space, personnel, and time to prepare for administering the exam. The Board feels that candidates should be required to show that they are a South Carolina resident, or full-time students, or conduct a trade or business, or are full-time employees in the State in order for the Board to admit them to the examination.

It is the policy of the Board to proctor the CPA Examination for candidates from other states (who desire to sit for the examination in South Carolina) when all conditions are possible.

8. The Board of Accountancy has no opposition to the recommendation concerning reciprocity.

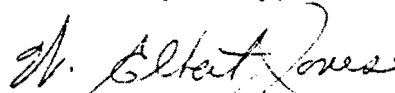
9. The Board recommends a phase-in period for the adoption of eighty (80) hours Continuing Professional Education in each two-year period.

Other Comments of the Board:

In 1976, by provision in the State Budget Act, the Board of Accountancy came under the Comptroller General. Unexpended fees of the Board went into the General Fund of the State of South Carolina. The Board recommends that the procedures provided by Sections 40-1-150 and 40-1-120 of the South Carolina Code of Laws be retained and followed. These procedures would provide the Board of Accountancy with a more efficient financial administration and an opportunity for better long-range planning.

The members of the South Carolina Board of Accountancy welcome the opportunity to meet with you and your staff in the future.

Yours very truly,



W. Elbert Jortés, CPA
Chairman

WEJ/es

Attachment

ARTICLE 3

CODE OF PROFESSIONAL ETHICS

RULE

- 1-30. Independence, Integrity and Objectivity.
- 1-31. Competency and Technical Standards.
- 1-32. Responsibilities to Clients.
- 1-33. Responsibilities to Colleagues.
- 1-34. Other Responsibilities and Practices.

1-30. Independence, Integrity and Objectivity.

(A) **Independence.** A CPA, PA, or Accounting Practitioner or a firm of which he is a partner or shareholder shall not express an opinion on financial statements of an enterprise unless he and his firm are independent with respect to such enterprise. Independence will be considered to be impaired if, for example:

- 1. During the period of his professional engagement, or at the time of expressing his opinion, he or his firm
 - a. Had or was committed to acquire any direct or material indirect financial interest in the enterprise; or
 - b. Had any joint closely held business investment with the enterprise or any officer, director or principal stockholder thereof which was material in relation to his or his firm's net worth; or
 - c. Had any loan to or from the enterprise or any officer, director or principal stockholder thereof. This latter proscription does not apply to the following loans from a financial institution when made under normal lending procedures, terms and requirements:
 - (i). Loans obtained by a CPA, PA or Accounting Practitioner or

his firm which are not material in relation to the net worth of such borrower.

- (ii). Home mortgages.
 - (iii). Other secured loans, except loans guaranteed by a CPA, PA, or Accounting Practitioner's firm which are otherwise unsecured.
2. During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, he or his firm
- a. Was connected with the enterprise as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or
 - b. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had a direct or material indirect financial interest in the enterprise; or was a trustee for any pension or profit-sharing trust of the enterprise.

The above examples are not intended to be all-inclusive.

(B) **Integrity and objectivity.** A CPA, PA or Accounting Practitioner shall not knowingly misrepresent facts, and when engaged in the practice of public accounting, including the rendering of tax and management advisory services, shall not subordinate his judgment to others.

In tax practice, a CPA, PA, or Accounting Practitioner may resolve doubt in favor of his client as long as there is reasonable support for his position.

1-31. Competency and Technical Standards.

(A) **Competence.** A CPA, PA, or Accounting Practitioner shall not undertake any engagement which he or his firm cannot reasonably expect to complete with professional competence.

(B) **Auditing standards.** A CPA, PA, or Accounting Practitioner shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent public accountant unless he has complied with the applicable generally accepted auditing standards. Statements on Auditing Procedure issued by the AICPA committee on auditing procedure are, for purposes of this rule, considered to be interpretations of the generally accepted auditing standards, and departures from such statements must be justified by those who do not follow them.

(C) **Accounting principles.** A CPA, PA, or Accounting Practitioner shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from an accounting principle promulgated by the body designated by The Council of AICPA to establish such principles which has a material effect on the statements taken as a whole, unless the CPA, PA, or Accounting Practitioner can demonstrate that due to unusual circumstances the financial

statements would otherwise have been misleading. In such cases his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

(D) **Forecasts.** A CPA, PA, or Accounting Practitioner shall not permit his name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that he vouches for the achievability of the forecast.

1-32. Responsibilities to Clients.

(A) **Confidential client information.** A CPA, PA, or Accounting Practitioner shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client.

This rule shall not be construed (a) to relieve a CPA, PA, or Accounting Practitioner of his obligation under Rules 1-31 (B) and 1-31 (C), (b) to affect in any way his compliance with a validly issued subpoena or summons enforceable by order of a court, (c) to prohibit review of a CPA, PA, or Accounting Practitioner's professional practices as a part of voluntary quality review under appropriate authorization or (d) to preclude a CPA, PA, or Accounting Practitioner from responding to any inquiry made by the ethics division, trial board, or duly constituted investigative or disciplinary body of a national professional association or state professional society, or under state statutes.

(B) **Contingent fees.** Professional services shall not be offered or rendered under an arrangement whereby no fee will be charged unless a specified finding or result is attained, or where the fee is otherwise contingent upon the findings or results of such services. However, a CPA, PA, or Accounting Practitioner's fees may vary depending, for example, on the complexity of the service rendered.

Fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

1-33. Responsibilities to Colleagues.

(A) **Encroachment.** A CPA, PA, or Accounting Practitioner shall not endeavor to provide a person or entity with a professional service which is currently provided by another public accountant except:

1. He may respond to a request for a proposal to render services and may furnish service to those who request it. However, if an audit client of another independent public accountant requests a CPA, PA, or Accounting Practitioner to provide professional advice on accounting or auditing matters in connection with an expression of opinion on financial statements, the CPA, PA, or Accounting Practitioner must first consult with the other accountant to ascertain that the CPA, PA, or Accounting Practitioner is aware of all the available relevant facts.

2. Where a CPA, PA, or Accounting Practitioner is required to express an opinion on combined or consolidated financial statements which include a subsidiary, branch or other component audited by another independent public

accountant, he may insist on auditing any such component which in his judgment is necessary to warrant the expression of his opinion.

A CPA, PA, or Accounting Practitioner who receives an engagement for services by referral from another public accountant shall not accept the client's request to extend his service beyond the specific engagement without first notifying the referring accountant, nor shall seek to obtain any additional engagement from the client.

1-34. Other Responsibilities and Practices.

(A) **Acts discreditable.** A CPA, PA, or Accounting Practitioner shall not commit an act discreditable to the profession.

(B) **Solicitation and Advertising.** A licensee shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, deceptive or tends to promote unsupported claims.

Such activities include those that: (1) create false or unjustified expectations of favorable results; (2) imply the ability to influence any court, tribunal, regulatory agency or similar body or official; (3) consist of statements that are self-laudatory and that are not based on verifiable facts; (4) make incomplete comparisons with other licensees; (5) contain testimonials or endorsements; (6) contain any other representations that would be likely to cause a reasonable person to misunderstand or be deceived; (7) consist of the use of coercion, duress, compulsion, intimidation, or vexatious or harassing conduct; (8) consist of a direct personal communication soliciting an engagement to perform professional services where the engagement would be for a person or entity not already a client of the licensee, unless such person or entity has invited such a communication or is seeking to secure the performance of professional services and has not yet engaged another to perform them.

(C) **Commissions.** A CPA, PA, or Accounting Practitioner shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. This rule shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals formerly engaged in the practice of public accounting or payments to their heirs or estates.

(D) **Incompatible Occupations.** A CPA, PA or Accounting Practitioner who is engaged in the practice of public accounting shall not concurrently engage in any business or occupation which impairs his objectivity in rendering professional services or creates a conflict of interest.

(E) **Form of practice and name.** A CPA, PA, or Accounting Practitioner may practice public accounting, whether as an owner or employee, only in the form of a proprietorship, a partnership or a professional association whose characteristics conform to resolutions of The Council of AICPA.

A CPA, PA, or Accounting Practitioner shall not practice under a firm name which includes any fictitious name, indicates specialization or is misleading as to the type of organization (proprietorship, partnership or professional association). However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or professional association. Also, a partner surviving the death or withdrawal of all other partners may continue to practice under the partnership name for up to two years after becoming a sole practitioner.